

46 Am. Jur. 2d Judges § 131

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

4. Bias or Prejudice as Grounds for Disqualification

a. Bias or Prejudice as Grounds for Disqualification, in General

§ 131. Effect of acts intended to create bias on part of judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1), 49(2)

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[Disqualification of judge because of assault or threat against him by party or person associated with party, 25 A.L.R.4th 923](#)

Generally, a party who acts, deliberately and with an ulterior motive, in such a way as to cause the judge to become biased or prejudiced against him or her, is not entitled to have the judge disqualified.¹ A party may not engage in conduct in the course of litigation that might cause any conscientious judge to express his or her disapproval of it, and thereby put the party in a position to urge successful motions to disqualify the judge on the basis that the parties, once embroiled in a self-created controversy with a judge, would have a license under which the judge would serve at their will.² Absent extraordinary circumstances, for instance, threats or plots by a criminal defendant against the judge presiding over his or her case, even serious ones, do not mandate the judge's recusal.³

Similarly, the actions of an attorney intended or apparently intended to create a bias against him or her for the purpose of creating grounds for a motion to disqualify the judge will not, generally, constitute a ground for disqualification.⁴

Footnotes

- 1 [Ponder v. Davis](#), 233 N.C. 699, 65 S.E.2d 356 (1951).
A party may not rely on his or her own conduct as a way to force a judge to recuse him- or herself from the proceedings. [Kalkowski v. Nebraska National Trails Museum Foundation, Inc.](#), 290 Neb. 798, 862 N.W.2d 294 (2015).
- 2 [People v. Diaz](#), 130 Misc. 2d 1024, 498 N.Y.S.2d 698 (County Ct. 1986).
- 3 [Battle v. State](#), 298 Ga. 661, 784 S.E.2d 381 (2016).
Recusal is rarely required when a judge has been threatened by a criminal defendant. [State v. Zorn](#), 195 Vt. 381, 2013 VT 65, 88 A.3d 1164 (2013).
- 4 [State ex rel. Fuente v. Himes](#), 160 Fla. 757, 36 So. 2d 433 (1948).

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